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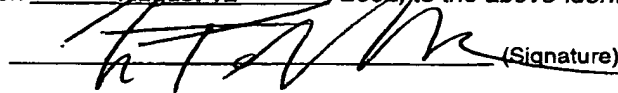
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Listed below are the item(s) being submitted with this Certificate of Transmission:\*\*

Number of Pages Including this Page: 6

- 1) Amendment transmittal (1 pg) (orig & copy)
- 2) Election of Species (3 pgs.)
- 3)
- 4)
- 5)

Inventor(s): Hamersky et al.

S.N.: 09/760,037

Filed: January 12, 2001

Case: 7914M

Comments:

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FRANK TAFFY P-52,270  
Name of Attorney Registration No.  
Signature of Attorney

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IN THE UNITED STATES PATENT & TRADEMARK OFFICE  
RESPONSE/AMENDMENT

GROUP 1600

Case Docket No. 7914M

ASSISTANT COMMISSIONER FOR PATENTS  
Washington, D.C. 20231

Dear Sir:

Transmitted herewith is an AMENDMENT for the patent application:

Inventor(s): Hamersky et al. Confirmation No. 1859

Serial No.: 09/760,037 Group Art Unit: 1661

Date Filed: January 12, 2001 Examiner: Annette Para

Title:

1. ☒ No additional fee is known to be required.
2. ☐ The fee has been calculated as shown below:

	(Col. 1)		(Col. 2)	(Col. 3)	OTHER THAN A SMALL ENTITY	
	CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NO. PREVIOUSLY PAID FOR	PRESENT EXTRA*	RATE	FEE
TOTAL	*	MINUS	**	=	x \$18 =	\$
INDEP.	*	MINUS	***	=	x \$84 =	\$
FIRST PRESENTATION OF MULTIPLE DEP. CLAIM					+ \$280 =	\$
					TOTAL	\$0

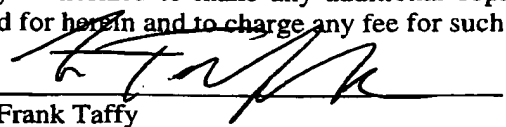
\* If the entry in Col. 1 is less than the entry in Col. 2, write "0" in Col. 3.

\*\* If the highest number of total claims previously paid for is less than 20, write "20" in this space.

\*\*\* If the highest number of independent claims previously paid for is less than 3, write "3" in this space.

The "Highest Number Previously Paid For" (Total or Independent) is the highest number found from the equivalent box in Col. 1 of a prior amendment or the number of claims originally filed.

3. ☒ The Commissioner is hereby petitioned under 37 CFR §1.136(a) to grant any extension of time needed for timely response to the Office Action dated in the above-identified application to preserve pendency of said application. The processing fee under 37 CFR §1.17 has been determined as follows: \$400 for a two-month extension of time.
4. The Commissioner is hereby authorized to charge payment of the following fees associated with this communication or credit any overpayment to Deposit Account No. 16-2480. A duplicate copy of this sheet is attached.
  - a. ☒ Any patent application processing fees under 37 CFR §1.16.
  - b. ☒ Any patent application processing fees under 37 CFR §1.17.
5. The Commissioner is hereby authorized to make any additional copies of this sheet needed to accomplish the purposes provided for herein and to charge any fee for such copies to Deposit Account No. 16-2480.

  
Frank Taffy  
Attorney or Agent for Applicant(s)  
Registration No. P52,270  
Tel. No. (513) 634-9315

Date: August 12, 2002  
Customer No. 27752  
(last revised 7/1/02)

*note action (given 3 mos  
can't chg more*

*discuss*#6  
8/28/02

I hereby certify that this correspondence is being transmitted  
via facsimile to (703) 305-3014, addressed to: Assistant  
Commissioner for Patent, Washington, D.C. 20231 on  
12 August 2002

Frank Talty, Esq. P-52 270  
Name of Attorney Registration No.  
Signature of Attorney

Case 7914M

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In the Application of :  
**MARK W. HAMERSKY, et al.** :  
Serial No. 09/760,037 : Group Art Unit 1661  
Filed 12 January 2001 : Examiner Para, Annette H.  
For VASE-ADDED :  
COMPOSITIONS FOR  
CONTROLLING PLANT AND  
FLOWER MOISTURE  
TRANSPIRATION RATES

**ELECTION OF SPECIES UNDER 35 USC § 121**

Commissioner for Patents  
Washington, D.C. 20231

Dear Sir:

In response to the Office Action dated 11 March 2002, please enter the Applicants' below-listed election of species in the above-identified case. Moreover, the Applicants hereby petition the Office for a two-month extension of time in which to file the present communication. In this respect, the Applicants hereby authorize the Office to charge any necessary payment, and credit any over payment thereof, to maintain the pendency of the present application to the Applicants' Deposit Account, No. 16-2480.

08/28/2002 LBANKS 00000001 162480 09760037

01 FC:116 400.00 CH

### ELECTION OF SPECIES

The Examiner has asserted an Election of Species in the present application. Specifically, the Examiner has set forth the following species, from which the Applicants have been asked to elect:

- (1) Antimicrobials recited in claim 10; and
- (2) Antimicrobials encompassed by the formula in claim 11.

The Applicants hereby elect to prosecute the antimicrobial compounds encompassed by the formula of claim 11, with traverse. The Applicants traverse the present election on the grounds that the above-described species are not patentably distinct, *per se*. Rather, the antimicrobials listed in claim 10 and encompassed by the formula in claim 11 may be employed, simultaneously, as suitable antimicrobials of present claim 1. Although the compounds encompassed by claims 10 and 11 can also be used individually as antimicrobials in the context of the present invention, their cooperative use is specifically envisioned and desired.

In light of the present election, the Applicants wish to underscore to the Examiner that election of the antimicrobials encompassed by the formula in claim 11 does not present any undue search burden on the part of the Office. Rather, the formula listed in claim 11 is specifically directed to quaternary ammonium compounds for use in antimicrobial compositions, and particularly in compositions for controlling plant and flower moisture transpiration. Currently, claim 11 depends from claim 1, directed to a composition for controlling plant and flower moisture transpiration, comprising a source of energy, one or more antimicrobials and the balance carriers and adjunct ingredients.

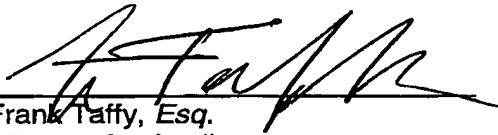
**CONCLUSION**

Applicants have made an earnest effort to place the present claims in condition for examination and/or allowance. WHEREFORE, entry of the Applicants' above election of species and allowance of Claims 1-37, are respectfully requested. In the event that issues remain prior to allowance of the noted claims, then the Examiner is invited to call Applicants' undersigned attorney to discuss any remaining issues.

Respectfully submitted,

**MARK WILLIAM HAMERSKY, et al**

By

  
Frank Taffy, Esq.  
Attorney for Applicants  
Registration No. P-52,270  
(513) 634-9315

12 August 2002  
Cincinnati, Ohio  
Case 7914M - Election.doc